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EXAMINER	
NGUYEN, CUONG H	
ART UNIT	**PAPER NUMBER**
3661	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/077,364	SAVAGE, JOHN K.	
	Examiner	Art Unit	
	CUONG H. NGUYEN	3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *9/30/05 (the RCE)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is the answer to the communication received on 9/30/2005.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/30/05 has been entered.

The present Office Action is a response to applicant's pre-amendment of 9/30/05 following a request for continued examination under 37 CFR 1.114.

2. Claims 1-22 are pending in this application.

Response

3. The Examiner respectfully submits that he maintains previous position in the Office Action mailed on 4/01/2005 with the combination of cited prior art of Cahlander et al. and Dietrich et al. because the argued subject matter is very well-known (e.g., on page 9, 1st para. "Cahlander fails to disclose or suggest initiating cooking instructions in response to desired quantities of the selected food items at desired time intervals, as is recited in each of claims 1-22" – this subject matter is merely involved input commands according to different planned schedules/forecasting i.e., predicting food quantities, or predicting man-power and a time interval to finish a job). In responding to the argument on page 8, 2nd para., when issuing US Pat. 6,026,372 to Mr. Savage, the examiner did not consider a reference of Dietrich et al. (US Pat.5,630,070). The examiner also respectfully submits that there is no different when considering that rates are equated to quantities within a time interval (especially, in a food delivery environment as applying in Cahlander, and Dietrich et al.).

4. On page 10, 1st para., the applicant argues that there is no motivation to combine Dietrich with Cahlander; the examiner respectfully submits that Cahlander is implemented by Dietrich to provide an optimum planning in food preparations - that is also what claims in this pending invention.

On page 9, 2nd para., and on page 10 1st para., the applicant asserts that Cahlander et al. teach away from: maintaining a desired quantity of selected food items at a desired time; and managing a current inventory of items (please note that these steps are not physical components in the claimed system); the examiner also respectfully disagrees because Cahlander issues cooking instructions based on anticipated rates/desired quantities – that means a desired quantity at a desired time is already taken into account, and Cahlander already practices of managing current inventory of items (see Cahlander, claim 34).

On page 9, 3rd para., since Dietrich is a secondary reference, it modifies the core reference of Cahlander in suggest of cooking food items at certain time of the day/week.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 14-20, and 22 are rejected under 35 U.S.C. 103(a) as obvious over Cahlander et al.(US Pat. 4,922,435), in view of Dietrich et al. (US Pat. 5,630,070).

A. As to claim **14**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, comprising:

- a processor (see Cahlander, claim 83), programmed to determine cooking instructions for food items based on a selected relation between time of day, cooking times for the food items and desired quantities of food items at desired time intervals, and a selected relation between variable quantities of processed food items and the desired quantities of food items at the desired time interval (see Cahlander et al., the abstract);

- a memory coupled to the processor for storing information about food items, the information including desired quantities of food items at desired time intervals, cooking times for food items, and variable quantities of processed food items; and

- a user interface (i.e., a keyboard) operationally coupled to the processor and the memory and adapted to communicate cooking instructions for the food items to a monitor in response to a selected relation between time of day, the cooking times for the food items and the desired quantities of food items at desired time intervals, and a selected relation between the variable quantities of processed food items and the desired quantities of food items at desired time intervals (see Cahlander et al., Fig. 27, col.25 line 63 to col. 26 line 20, and col.27 lines 50-53).

- a 2nd user interface (i.e., another communication input) coupled to the processor and the memory to receive commands; and a clock/timer (these components are in Cahlander's system).

Cahlander issues cooking instructions based on anticipated rates/desired quantities – that means a desired quantity at a desired time is already taken into account, and Cahlander already practices of managing current inventory of items although this reference is silent about "to use a current inventory for a future need.".

To use a current inventory for a future need, Dietrich et al. also rely on current inventory for a later run/production (see Dietrich et al., the abstract, and col.13 lines 50-53).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement Cahlander et al., with Dietrich et al.'s teaching to use a current inventory for a future need, because Dietrich et al. clearly suggest that an accurate quantity of product would be provided through a current inventory (stored inventory) about available items for sales.

B. As to claim **15**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, comprising:

- order receiving interface operationally coupled to the processor and the memory (see Cahlander et al., Fig.1, ref. 623; and they clearly disclose: "operator input terminal 623 which includes a full function keyboard and a CRT display"), and adapted to receive orders for food items and update the information about food items including the variable quantities of processed food items.

C. As to claim **16**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, wherein the processor upon receiving an order for a selected number of a selected food item from the order receiving interface subtracts the selected number of the selected food item from the variable quantities of processed food items for the selected food item. Cahlander et al.'s claim 84 teach above features are inherent in Cahlander et al.'s system.

D. As to claims **17**, and **18**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, wherein the user interface comprises an input device and an

output device (see Cahlander et al., Fig.1, ref. 623; and they clearly disclose:" operator input terminal 623 which includes a full function keyboard and a CRT display").

E. As to claim **19**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, wherein the processor initiates a cooking instruction for a selected food item to the user interface upon the current time of day being equal to or less than a time value in the desired quantities of food items at desired time intervals for the selected food item minus the cooking time for the selected food item. This was inherently taught in col.1 lines 15-20 wherein the food must be cooked under correct conditions for the proper time (please note that Cahlander et al.'s system uses timers combining with a processor for sensing time intervals; then making decisions to initiate further instructions).

F. As to claim **20**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, wherein the processor initiates a cooking instruction for a selected food item to the user interface upon the quantities of processed food items for the selected food item being less than a desired quantity of the selected food item in the desired quantities of food items at desired time intervals (see Cahlander et al., col.2 lines 40-41, col.4 lines 54-56, col.8 lines 51-68, col.26 lines 39-42, and col.28 lines 8-14 for using comparisons in initiating cooking instructions).

G. As to claim **22**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, wherein the information about food items further including a number of food items to be cooked (see **Cahlander** et al., the abstract lines 9-11).

6. Claims 4, 11, and 21 are rejected under 35 U.S.C. 103(a) as obvious over Cahlander et al.(US Pat. 4,922,435), in view of Dietrich et al. (US Pat. 5,630,070).

The rationales and references for above rejection of claim 14 are incorporated.

Cahlander et al. do not disclose that quantities of processed food items include a sum comprising quantities of processed food items on-hand and quantities of food items presently cooking.

However, Dietrich et al. teach a similar way of performing inventory that taking into account both in-process and raw products (see **Dietrich** et al., col.4 lines 16-31). The examiner submits that what the applicant claims is merely a current available food inventory - counting both on-hand and presently cooked food.

It would have been obvious to one of ordinary skill in the art to implement Cahlander et al., with Dietrich et al.'s teaching to suggest that quantities of processed food items include a sum comprising quantities of processed food items on-hand and quantities of food items presently cooking, because these references suggest that an accurate quantity of products would be provided in an inventory about available items for sales.

7. Claims 1-3, 5-10, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art (see the original specification, page 2, lines 4-13), in view of Cahlander et al. (US Pat. 4,922,435), and in view of Dietrich et al. (US Pat. 5,630,070).

A. In view of claims 1, and 7-8: Cahlander et al. check current inventory to a future plan (see Cahlander et al., col.1 lines 16-32 for a background that Cahlander et al. recognize and compare current inventory to future plan schedule to determine whether more food should be prepared. Cahlander et al. teach monitoring and responding to a select relationship of value compared to the table of cooking time to prepare intervals...". The

examiner submits that Cahlander et al., Fig.41, col.2 lines 40-41, col.4 lines 54-56, col.8 lines 51-68, col.29 lines 8-14, and claim 72, suggest this idea.

The examiner submits that Cahlander et al.'s reference is within the field of the inventor's endeavor and this reference is reasonably pertinent to the particular problem (to predict (near) future food needs) with which is claimed by the applicant (see Cahlander et al. col.1 lines 40-42). In the background of the original specification (page 2, lines 4-13 of S.N. 08/863,000), the applicant admits that "...Systems have been designed, such as that shown in U.S. Patent No. 5,218,527, which instruct the cook when to commence the items of a selected order so that all the items are completed at a current inventory but is responsive to a select order of a customer. Hence, this system merely times when each item of a group of items should be commenced.

Cahlander et al. teach a fully automated system/computer system and method for cooking food products, said system can determining and transmitting cooking signals (instruction/time) for a selected food items, comprising:

- programmable memory (see Cahlander, claim 83);

- a cooking station monitor (see Cahlander, col. 26, lines 3-21);

- a quantity of processed selected food item stored on said programmable memory (see Cahlander, claim 87, and col.40, lines 49-51);

The examiner submits that Cahlander et al. teach the followings in Tables I-V :

- a table of desired quantities of the selected food items at desired time intervals relating to said table of selected food items, said table of desired quantities at desired time intervals being stored on said programmable memory; (see also Cahlander, col.40, lines 49-51 and claim 56);

- a table of cooking time to prepare intervals relating to said table of selected food items, said table of cooking time to prepare intervals being stored on said programmable memory (see also Cahlander, col.1, lines 18-32; col.2, lines 42-45; col.9, lines 25-34).

- a table of cooking time to prepare intervals relating to said table of selected food items, said table of cooking time to prepare intervals being stored on said programmable memory (see also Cahlander, col. 27, lines 50-53);

- control means for initiating a cooking instruction to said cooking station monitor in response to a selected relation between the current time and said table of desired quantities of the selected food items at desired time intervals and said table of cooking time to prepare intervals, and a selected relation between the variable quantity of selected food items and said table of desired quantities of selected food items at desired time intervals (see also Cahlander, the abstract, and claim 93).

To use a current inventory for a future need, Dietrich et al. also rely on current inventory for a later run/production (see Dietrich et al., the abstract, and col.13 lines 50-53).

It would have been obvious to one of ordinary skill in the art at the time of invention to rely on Cahlander et al. and Dietrich et al. for setting up a computer system for determining and transmitting cooking instruction for selected food items at time intervals to supply needs of the selected food items; because they sufficiently teach similar components to perform management tasks for the benefit of serving/inventory food for future short-term and long-term schedules.

B. As to claims 2, and 9: Cahlander teaches a control means to:

- initiate cooking instructions to a cooking station according to planned intervals (see Cahlander, col.1 lines 17-19; and col.32 lines 41-45). This was inherently taught in col.1 lines 15-20 wherein the food must be cooked under correct conditions for the proper time (please note that Cahlander et al.'s system uses timers combining with a processor for sensing time intervals; and making decisions to initiate cooking instructions).

C. As to claims 3, and 10, Cahlander et al. teach a control means to:

- establishes cooking instructions using ROBOT based on stored/inventory quantities of processed selected food items at desired time intervals (see Cahlander, Fig.41, Tables II-III, and col.1 lines 17-19).

D. As to claims 5, and 12, Cahlander et al. teach a pre-programmed cash register to automatically taking inventory ("...control means subtracts a number of selected food items manually entered upon said cash register from a variable quantity of selected food items stored in a memory") (see Cahlander, Fig.41 indicates that a communication link between POS and controller for real-time inventory, claims 84, and 112).

E. As to claims 6, and 13, Cahlander et al. teach different items to be cooked simultaneously (pre-programmed in memory and using a table of selected food items (see Cahlander, Table V, col.28 lines 43-49, and col.29 lines 1-7).

Conclusion

8. Claims 1-22 are not patentable.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759. The examiner can normally be reached on 9:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6759.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.

Cuonghnguyen

CUONG H. NGUYEN
Primary Examiner
Art Unit 3661